

**N.D.A.G. Letter to Baer (May 16, 1988)**

May 16, 1988

Mr. Larry M. Baer  
Towner County Water Resource District  
Towner County Courthouse  
Cando, ND 58324

Dear Mr. Baer:

Thank you for your April 7, 1988, letter. I apologize for the delay in my response.

In your letter, you inquire about the proper method to assess payment for transcription costs when an appeal is taken from a water resource district decision on a drainage complaint. As you state in your letter, the statute authorizing the appeal does not address who should pay the costs of transcribing the record and forwarding it to the state engineer.

I have reviewed other appellate situations and such costs are the responsibility of the appellant. See N.D.C.C. § 28-32-17 and N.D.R. App. P. 10(c). In other situations the court decides which party is responsible for the transcript. See N.D.R. Civ. P. 30. The proposed rules implementing the appeal on a drainage complaint require the appellant to pay the costs of transcription. N. D. Admin. Code § 89-02-04-05(8) ( proposed rule).

Based upon this review and the proposed rule, I believe it is most appropriate for the party requesting the state engineer's review to pay the costs of transcription.

I hope this discussion has been of assistance to you.

Sincerely,

Nicholas J. Spaeth

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